

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of)	Case No. 08-C-12809-PEM
)	
JAGROOP SINGH GILL,)	
)	DECISION AND ORDER SEALING
Member No. 113696,)	DOCUMENTS
)	
A Member of the State Bar.)	
)	
_____)	

I. Introduction

In this conviction referral and disciplinary proceeding, respondent **Jagroop Singh Gill** stipulated to one felony conviction involving driving under the influence and causing bodily injury.

In September 2009, this court accepted respondent as a participant in the State Bar Court's Alternative Discipline Program (ADP). (Rules Proc. of State Bar, rules 800-807.)

But less than two months later, respondent has been terminated from the State Bar Court's ADP because of his failure to comply with the ADP's requirements.

Therefore, pursuant to rule 803 and in light of his admitted misconduct, the court recommends that respondent be suspended from the practice of law for six months, that execution of the suspension be stayed, and that respondent be placed on probation for two years on conditions that include his actual suspension for 30 days.

II. Significant Procedural History

A. Respondent's Acceptance into the Alternative Discipline Program

On September 23, 2009, the court approved a Stipulation re Facts and Conclusions of Law (Stipulation) and accepted respondent into the ADP. The Stipulation was then filed. On the same day, respondent executed a Contract and Waiver for Participation in the State Bar Court's Program for Respondents with Substance Abuse or Mental Health Issues (Contract). This court also lodged a Confidential Statement of Alternative Dispositions and Orders (Statement).

Respondent's eligibility and acceptance into the ADP was based on, among other things: 1) his participation in the State Bar's Lawyer Assistance Program (LAP); 2) the Stipulation; 3) the nexus evidence he provided; and 4) his agreement to accept the court's low and high levels of recommended discipline set forth in the Statement. (Rules Proc. of State Bar, rule 802.)

Respondent agreed to fulfill all of the requirements set forth by the ADP Judge as conditions for respondent's ongoing participation in the ADP.

B. Respondent's Termination from the Alternative Discipline Program

At the November 2, 2009 status conference, respondent appeared and was represented by his counsel Edward O. Lear. The court determined that he was not in compliance with the ADP's requirements.

Respondent was therefore terminated from the ADP based upon his noncompliance with the conditions of the ADP and his failure to participate in the LAP.

The court now issues this decision recommending the high level of discipline set forth in the Statement.

III. Findings of Fact and Conclusions of Law

Respondent was admitted to the practice of law in California on June 15, 1984,¹ and has been a member of the State Bar of California at all times since.

The Stipulation is attached and hereby incorporated by reference, as if fully set forth herein. The Stipulation sets forth the factual findings, legal conclusions and aggravating and mitigating circumstances in this matter.

In brief, respondent stipulated to one criminal conviction involving driving under the influence and causing bodily injury and certain aggravating and mitigating factors.

The court further finds that the facts and circumstances surrounding respondent's criminal conviction does not involve moral turpitude but does involve other misconduct warranting discipline.

In accordance with applicable Supreme Court case law, an attorney's rehabilitation from substance abuse problems can be accorded significant mitigating weight if it is established that (1) the abuse was addictive in nature; (2) the abuse causally contributed to the misconduct; and (3) the attorney has undergone a meaningful and sustained period of rehabilitation. (*Harford v. State Bar* (1990) 52 Cal.3d 93, 101; *In re Billings* (1990) 50 Cal.3d 358, 367.)

Here, in accepting respondent into the ADP, the court found that respondent had suffered from substance abuse and that there was a sufficient connection between respondent's substance abuse problems and the stipulated misconduct. (Rules Proc. of State Bar, rule 802.) Respondent enrolled in the State Bar's LAP under a monitoring contract for evaluation in October 2008. But, he was terminated from LAP in October 2009. Respondent's conduct before this court while participating in the ADP and his termination from that program prevent the court from making a

¹ At page 1 of the Stipulation, the admission date was incorrectly noted as "March 19, 1957."

finding that respondent has established his sustained rehabilitation by clear and convincing evidence. Therefore, the court will not give respondent any mitigation credit for his participation in the LAP or the ADP.

Furthermore, although the parties stipulated that respondent was candid and cooperative with the State Bar during its resolution of these matters, the mitigating force of this factor is dramatically reduced based on respondent's termination from the ADP. (Std. 1.2(e)(v).)

IV. Discussion

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, preserve public confidence in the profession and maintain the highest possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111; *Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1025; std. 1.3.)

After considering the Stipulation, scope of respondent's acts of misconduct, the mitigating and aggravating circumstances, the standards, the relevant case law, and respondent's declaration regarding the nexus between his substance abuse issues and his misconduct in this matter, the court had advised respondent and the State Bar of the low and high levels of discipline which would be recommended to the Supreme Court, depending on whether respondent successfully completed the ADP or was terminated from the ADP. The recommended discipline was set forth in the Statement.

Accordingly, because respondent was terminated from the ADP in November 2009, the court hereby recommends the high level of discipline to the Supreme Court.

V. Recommendations

A. Discipline

It is hereby recommended that respondent **Jagroop Singh Gill** be suspended from the practice of law in the State of California for six months, that execution of such suspension be stayed and that respondent be placed on probation for two years on the following conditions:

1. Respondent must be actually suspended from the practice of law for the first 30 days of the period of probation;
2. Respondent must comply with the provisions of the State Bar Act and the Rules of Professional Conduct;
3. Within 10 calendar days of any change in the information required to be maintained on the State Bar's membership records pursuant to Business and Professions Code section 6002.1, subdivision (a), including his current office address and telephone or, if no office is maintained, the address to be used for State Bar purposes, respondent must report such change in writing to the Membership Records Office of the State Bar and to the Office of Probation;
4. Within 30 days after the effective date of discipline, respondent must contact the Office of Probation and schedule a meeting with respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, respondent must meet with the probation deputy either in person or by telephone. During the period of probation, respondent must promptly meet with the probation deputy as directed and upon request;
5. Respondent must submit written quarterly reports to the Office of Probation no later than each January 10, April 10, July 10 and October 10 of the period of probation. Under penalty of perjury, respondent must state whether he has complied with the State Bar Act,

the Rules of Professional Conduct and the conditions of probation during the preceding calendar quarter. If the first report will cover less than 30 days, that report must be submitted on the reporting due date for the next calendar quarter and must cover the extended period. In addition to all quarterly reports, respondent must submit a final report, containing the same information required by the quarterly reports. The final report must be submitted no earlier than 20 days before the last day of the probation period and no later than the last day of such period;

6. Respondent must abstain from use of any alcoholic beverages, and must not use or possess any narcotics, dangerous or restricted drugs, controlled substances, marijuana, or associated paraphernalia, except with a valid prescription;
7. Respondent must select a licensed medical laboratory approved by the Office of Probation. Respondent must furnish to the laboratory such blood and/or urine samples as may be required to show that respondent has abstained from alcohol and/or drugs. The samples must be furnished to the laboratory in such a manner as may be specified by the laboratory to ensure specimen integrity. Respondent must cause the laboratory to provide to the Office of Probation, at respondent's expense, a screening report on or before the 10th day of each month of the probation period, containing an analysis of respondent's blood and/or urine obtained not more than 10 days earlier;
8. Respondent must maintain with the Office of Probation a current address and a current telephone number at which respondent can be reached. Respondent must return any call from the Office of Probation concerning testing of respondent's blood or urine within 12 hours. For good cause, the Office of Probation may require respondent to deliver respondent's urine and/or blood sample(s) for additional reports to the laboratory no later

than six hours after actual notice to respondent that the Office of Probation requires an additional screening report;

9. Subject to the assertion of applicable privileges, respondent must answer fully, promptly and truthfully, any inquiries of the Office of Probation that are directed to him personally or in writing, relating to whether he is complying or has complied with these probation conditions;
10. Within one year of the effective date of the Supreme Court's final disciplinary order in this proceeding, respondent must provide to the Office of Probation satisfactory proof of his attendance at a session of State Bar Ethics School and of passage of the test given at the end of that session, unless he previously completed the course within the prior two years (Rules Proc. of State Bar, rule 290);
11. Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation;
12. The period of probation will commence on the effective date of the final disciplinary order of the Supreme Court imposing discipline in this proceeding; and
13. At the expiration of the period of this probation, if respondent has complied with all of the terms and conditions of probation, the order of the Supreme Court suspending respondent from the practice of law for six months will be satisfied and that suspension will be terminated.

B. Multistate Professional Responsibility Exam

It is also recommended that respondent be ordered to take and pass the Multistate Professional Responsibility Examination (MPRE), administered by the National Conference of Bar Examiners, and to provide proof of passage of the MPRE to the Office of Probation, within

one year of the effective date of the Supreme Court's final disciplinary order in this proceeding. Failure to pass the MPRE, and to provide proof of such passage, within the specified time will result in actual suspension by the State Bar Court Review Department, without further hearing, until respondent provides the required proof of passage of the MPRE.

C. Costs

It is further recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

VI. Order Sealing Documents

In the course of determining respondent's eligibility for participation in the State Bar Court's Alternative Discipline Program, and while respondent was participating in the Program, various documents were submitted to the court for review under confidential cover. Pursuant to Business and Professions Code section 6234, subdivision (a), and rule 806 of the Rules of Procedure of the State Bar of California, all information concerning the nature and extent of a respondent's treatment is absolutely confidential and is not to be disclosed to the public absent an express written waiver by the respondent.

In light of the foregoing,

IT IS HEREBY ORDERED that, pursuant to rules 23 and 806, all other documents not previously filed are to remain confidential and sealed.

IT IS FURTHER ORDERED that the protected and sealed material will only be disclosed to: (1) parties to the proceeding and counsel; (2) personnel of the Supreme Court, the State Bar Court and independent audiotape transcribers; and (3) personnel of the Office of Probation when necessary for their official duties. Protected material will be marked and maintained by all authorized individuals in a manner calculated to prevent improper disclosure.

All persons to whom protected material is disclosed will be given a copy of this order sealing the documents by the person making the disclosure.

IT IS SO ORDERED.

Dated: January ____, 2010

PAT McELROY
Judge of the State Bar Court